

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2643

PETITION OF SHEILA M. HARRON AND WILLIAM P. LOEWE

OPINION OF THE BOARD

(Opinion Adopted October 19, 2005)

(Effective Date of Opinion: November 28, 2005)

Case No. S-2643 is an application for a special exception pursuant to Section 59-G-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

The subject property is Lot 9, Block 1, Burnt Mills Harper Tract Subdivision, located at 916 West Nolcrest Drive, Silver Spring, Maryland, 20903.

The Hearing examiner for Montgomery County held a hearing on the application on August 12, 2005, closed the record in the Case on September 13, 2005, and on September 26, 2005 issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted**, Subject
To Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on October 19, 2005. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioners are bound by their testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board;

2. Based on habitable space in the apartment (410 square feet), no more than two unrelated persons may reside in the unit or a family of up to three individuals;
3. At least one of the co-owner-Petitioners must occupy one of the dwelling units on the lot on which the accessory apartment is located;
4. Petitioners must not receive compensation for the occupancy of more than one dwelling unit, and Petitioners must forthwith notify the Department of Housing and Community Affairs that they are discontinuing their Registered Living Unit, No. 025680;
5. If the accessory apartment tenant has more than one vehicle, Petitioners must make at least one of the driveway parking spaces on their property available to the accessory apartment tenant. The tenant may not have more than two vehicles located in the general neighborhood; and
6. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Wendell M. Holloway, seconded by Donna L. Barron, with Angelo M. Caputo and Allison Ishihara Fultz, Chair, in agreement and Caryn L. Hines necessarily not participating, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of November, 2005.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.